

Citizen Charter Review Committee

March 18, 2010

5:30 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

- I. Call to Order
- II. Invocation and Pledge
- III. Roll Call
- IV. Approval of Minutes of Previous Meeting
 - 1. March 4, 2010 Public Hearing Minutes
- V. Presentations by Invited Guests/Consultant
 - 1. KSA Presentation of Proposed Charter Amendments
 - 2. Mayor John Marks
- VI. Opening of Third Public Hearing
- VII. Close of Third Public Hearing
- VIII. [Consideration of Proposed Charter Amendments](#)
- IX. Member Discussion
- X. Adjournment

*If necessary, the third public hearing would be continued on
Monday, March 22nd 2010, at 8:30 a.m. in the County Commission Chambers*

Leon County
2009-2010
Citizen Charter Review
Committee Meeting
March 4, 2010

SECOND PUBLIC HEARING

The Leon County 2009-2010 Citizen Charter Review Committee (CRC) met on Thursday, March 4, 2010 in the Commission Chambers with Committee members Chris Holley (Chair), Marilyn Wills, Larry Simmons, Tom Napier, Linda Nichol森, Cathy Jones, Chuck Hobbs, Donna Harper, Dave Jacobsen, Jon Ausman, Sue Dick, and Tom Napier in attendance. Absent and excused were Lester Abberger, Lance deHaven-Smith and Ralph Mason. Also attending were County Administrator Parwez Alam, Assistant County Attorney Patrick Kinni; Deputy County Administrator Vincent Long, Facilitator Kurt Spitzer, Special Projects Coordinator Shington Lamy and Deputy Clerk Rebecca Vause.

I. Call to Order

Chairman Holley called the meeting to order at 5:40 p.m.

II. Invocation and Pledge

The invocation was provided by Jon Ausman. The Pledge was led by Chairman Holley.

III. Roll Call

The roll was conducted by Shington Lamy; who confirmed a quorum was present.

IV. Approval of Minutes of Previous Meeting

Jon Ausman moved, duly seconded by Rick Bateman, to approve the February 18, 2010 Minutes. Tom Napier asked that the minutes be corrected to reflect the he made the motion to adjourn the February 18 Public Hearing. The motion to approve the minutes, as amended, carried 12-0 (Ralph Mason, Lester Abberger and Lance de-Haven Smith absent)

V. Opening of Second Public Hearing

Kurt Spitzer, at the request of Chairman Holley, provided a brief overview of the CRC process and of the Committee's recommendations. Following is a list and brief summary of the proposed charter amendments:

1. Tourist Development Council (TDC) Structure: Codifies into charter the current practice of TDC staff reporting to the County Administrator.
2. Countywide Environmental Standards: Permits the Board of County Commissioners to adopt ordinances that are effective countywide concerning any environmental standard, regulation or policy and eliminates different standards/regulations between the county and city in environmental policy.
3. Employment Policy for County Administrator: Provides that the County Administrator is employed by an affirmative vote of at least five members of the Board. Also provides that the County Administrator is terminated by an affirmative vote of at least five members of the Board occurring at the first regularly scheduled meeting of the Board after a motion expressing intent to remove the Administrator was approved.
4. Non-Interference Policy: Prohibits individual County Commissioners from giving instructions or directives to employees under the direct or indirect control of the County Attorney or County Administrator.

5. Petition Thresholds/Prohibitions: Lowers signatures required for petitions proposing ordinances or charter amendment from 10% countywide, including at least 10% in each single-member district to 7% countywide and 5% within each single-member district. Also clarifies that existing prohibited subjects apply to charter amendments in addition to ordinances.
6. Future Citizen CRCs: Provides that the CRC is appointed 15 months prior to the general election, instead of 12 months and requires the Board to consider a wide variety of factors when appointing CRC members so as to reflect diversity in the community. Also provides that CRC recommendations approved by nine votes go to the Board for their consideration; however, those recommendations receiving 12 votes would go directly to the ballot.
7. Clerk's Audit Function: Provides that the Clerk to the Board may conduct audits of the County Commission's books, accounts and internal controls pursuant to a work plan developed and approved by the Audit Committee. Also provides that the Clerk may conduct performance audits upon approval by the County Commission.
8. Utility Advisory Board: Comprised of seven members (3 appointed by City; 3 appointed by County and 1 appointed by CONA) to study and make recommendations to the City/County regarding utility rates, planning or expansion of utility service areas and maintenance activities.
9. Campaign Finance Reform: Limits campaign contributions for candidates for county offices to \$250 per election cycle from individuals or committees.

Public Speakers:

- Mayor John Marks appeared before the Committee to bring forward the City's concerns regarding the proposed Citizens Utility Board and unified environmental standards. He specifically asked that the CRC remove or amend the language on the environmental ordinance proposal and remove the recommendation of a Utility Advisory Board; which he deemed to be ultimately counter-productive.

Environmental Standards: Mayor Marks stated that although he was supportive of the concept of simplifying environmental rules and requirements, there are differences in environmental standards. He offered that information the Committee had been provided was less than complete and in some cases erroneous. *A written document was provided to Committee members that highlighted the information from the City and detailed a number of key issues. This document is included as Attachment 1.* He shared instances to help illustrate that in the vast majority of cases the City's overall environmental standards exceeded those in the County.

He suggested that should the Committee decide to move forward with the recommendation, the language be revised to preserve the environmental integrity and beauty of the City. *Mayor Marks' recommended language was distributed to the Committee and is included as Attachment 2.* He stated his proposed wording acknowledges that the County ordinances shall prevail when those ordinances provide a higher degree of protection but does not have the effect of lowering the City's standards in every instance. He offered that the change, which is a compromise, would help garner the support of City staff and City Commission.

Utility Advisory Board: The Mayor acknowledged that he was cognizant of citizen concerns regarding the cost of electricity and other utilities. He commented that the current rates are 20% lower than last year, currently below the state average and comparable to Talquin. The utilities operate efficiently and effectively and have the lowest operating costs in the State.

He asserted that the proposed Utility Advisory Board (UAB) would be expensive, potentially expensive and duplicative. He opined the UAB would create an additional layer of government bureaucracy and would have little authority to direct operations, nor would they be accountable to the citizens. Instead, the UAB would have the ability to “bottle neck” service and result in higher administrative costs. He shared that public input is received on utility matters at City Commission meetings and commissioners and county administrative staff, including him, were accessible to all citizens.

He opined that the two proposals as written are not in the best interest of the community and moving them forward, in the City’s opinion, would not be good governance. He asked that the environmental ordinance be removed or revised and that the concept of a Utility Advisory Board be removed. He asked that City staff be allowed to address the Committee on these specific issues.

Chairman Holley explained that establishment of the UAB responded to concerns expressed by County residents regarding their “lack of a voice” and asked that the City recognize this and form an advisory group on its own with unincorporated county participation. Mayor Marks responded that if requested by the CRC, the City would look into this.

Committee members brought forward comments, concerns and issues which were responded to by the Mayor. These issues included such items as: County staff’s assertion of the difficulty in determining which set of environmental standards were more stringent; measures taken by City to assist residents who have difficulty paying utilities; utility costs as compared to other municipalities; consideration to establish a fund to subsidize/assist residents in paying utilities and the need for citizens to have a voice in their local utilities.

Ms. Harper noted that the City should articulate their recommendations in writing prior to the next public hearing.

- Karen Jumonville, Land Use and Environmental Services Administrator, City of Tallahassee Growth Management advised that the proposed environmental standards language as written does not take into account the value differences inherent in urban vs rural development and does not recognize the redevelopment in the heart of the City. She added that citizens and staff have worked diligently to adequately define City regulations to achieve an appropriate balance between strong environmental protections and to provide for urban densities and intensities. Ms Jumonville asserted that “one size does not fit all” in terms of development regulations and the proposed language from the City’s perspective should not be added to the Charter; however, should the Committee decide to move forward, she requested that the language be revised to allow the City to retain its more stringent protections where they currently exist.
- John Buss, Water Resources, City of Tallahassee, acknowledged the difficulty in identifying which ordinance was more stringent. He advised that the City and County entered into an Interlocal Agreement to create a Joint Watershed Management Board which was charged with the development of unified consistent ordinances. He first urged the Committee to allow the Watershed Board to do its job, and secondly

advocated that the proposed language as presented by the Mayor be adopted by the Committee.

- Leon County Commissioner Bill Proctor, articulated his support for the establishment of the Citizen Utility Board and offered it was inappropriate for County residents to be disenfranchised from having a voice in the City's utility. He opined that residents are moving out of the urban service area because of high utility rates. Commissioner Proctor submitted for the record a New York Times article dated December 14, 2009 which addressed "Smart" electric utility meters. He articulated support for the establishment of sewer services to the Woodville/southside residents.
- Curtis Baynes, 1323 E. Tennessee St., provided written comments to the committee for their consideration. He stated that City "buy in" to the County's initiatives on stormwater and the citizen utility board was necessary to its successful implementation.
- Ira Chester, 3305 Claiborne Court, stated as a County resident, he wants an opportunity to purchase utilities from the lowest provider.
- Dennis Barton, 924 Hillcrest Court, expressed concern about the lack of a legal definition in Florida Statutes relating to residency requirements of County Commissioners. He offered that Leon County as a Charter County can, according to the Supervisor of Elections, resolve the problem of residency by defining residency in its Charter. Mr. Barton indicated that proposed language on this issue had been e-mailed to staff for distribution.

Chairman Holley requested that comments be restricted to the nine proposed amendments. He noted that individuals may contact individual County Commissioners with additional topics they may wish the Commission to consider.

Rick Bateman went on the record as stating that he was opposed to limiting public comment. This comment was echoed by Chuck Hobbs.

- Sonya Fancher, 3693 Corinth Dr. voiced her concerns regarding a County Commissioner not residing within the district he represents. She asserted that the Committee has the authority to begin the process of correcting this problem. She asked that the Committee present language to the Commissioners that would either define the residence requirement and penalties for not adhering to it or remove it all together. Information supporting Ms. Fancher's comments was presented to the Committee for its review. Ms. Fancher also expressed disappointment that all amendments being considered for adoption came from a Workshop held by Commissioners.

Jon Ausman addressed the residency comments and remarked that the CRC was not a judicial body and should not attempt to define the residency requirement. He offered that he would not support placement of this issue in the Charter.

- Erwin Jackson, 1341 Jackson Bluff Road, encouraged the CRC to adopt the Citizen Advisory Board amendment as the public needs every opportunity to express and exchange ideas. He encouraged the Committee to establish sanctions. In response to the proposed campaign finance limitation, he recommended the establishment of a Voter Education Committee to encourage debate between incumbents and identified challengers.

- Stephen Martin, 2625 Stonegate Dr., addressed the proposed environmental standards and opined that the County's standards are too lax. He expressed support for establishment of the Citizen Utility Board and concurred with the idea of debates between incumbents and challengers.
- Catherine Baer, Woodgate Neighborhood, stated that if commissioner residency requirements were not going to be enforced, all county commission seats should be changed to at-large position.
- Rick Malphurs, 6538 Treasure Oaks Circle, remarked that adoption of the Utility Advisory Board was extremely important and asserted that the County has been more pro-active than the city in regards to environmental standards.
- Larry Hendrix, 406 Alpha Avenue, provided input on the proposed amendments. He endorsed the more stringent environmental standards and also supported petition thresholds, Clerk Audit functions, Utility Advisory Board, and the lowering of campaign contributions. He urged consideration of enforcement of residency requirements and for the maximum access to county meetings and documents to all citizens.
- Scott Matteo, 3974 Calle De Santos, recommended that campaign finance reform proposal be replaced with term limits.
- The record will reflect that electronic comments on the amendments were provided by the following individuals:
 - Nick Providakis
 - Michael "Kevin" Gay
 - Erwin Jackson
 - Dennis Barton
 - Meile8830
 - R.L. Caleen, Jr.

VI. Close of Second Public Hearing

Chairman Holley closed the second public hearing at 8:07 p.m.

Mr. Bateman opined that it may have been beneficial to have conducted public hearings earlier in the process. Chairman Holley reminded the Committee that public input was welcomed at all CRC meetings and citizen participation was encouraged.

There was dialogue on the timeframe in which the Committee would approve the amendments. Ms. Harper confirmed that there was sufficient time on the Committee's calendar for the discussion and consideration of changes the Committee may deem appropriate after receipt of public input. Mr. Kinney advised that the rules state that the Committee must vote on amendments upon the conclusion of the final public hearing; however, the last public hearing can be continued to another date. Chairman Holley assured the Committee that they would spend as much time as necessary to ensure the amendments are agreed upon and approved by a majority of the members.

The Committee spent time discussing the scheduling of the meeting to approve the amendments. Chairman Holley requested that staff coordinate the date and time of the next meeting and convey this to members. Mr. Napier reminded staff to communicate all options to absent members.

VII. Presentation of Draft Final Report

Chairman Holley requested feedback on the Draft 2009-10 Citizen Charter Review Committee Final Report, which was distributed to members.

VIII. Adjournment

Tom Napier moved, duly seconded by Jon Ausman, to adjourn the meeting. The motion carried 12-0 (Ralph Mason, Lester Abberger and Lance de-Haven Smith absent).

The meeting adjourned at 8:20 p.m.

LEON COUNTY, FLORIDA

ATTEST:

BY: _____
Chris Holley, Chairman

BY: _____
Bob Inzer, Clerk of the Court
Leon County, Florida

**Clarification from Mayor Marks
Regarding Information Provided to Charter Review Committee
Pertaining to the Matter of
Countywide Environmental Standards**

March 4, 2010

At the February 4, 2010 Charter Review Committee meeting, Leon County staff made a presentation to the Committee seeking support for a proposal to amend the County Charter to make County environmental ordinances prevail over City ordinances. Several key elements of that presentation were erroneous. Because those elements were presented as justifying the need for the County to supersede the City's ordinance, it is important that these matters be more accurately considered. The assertions from the presentation are listed below with city facts below.

1. The City has weaker stormwater rules and developers annex into the City to avoid the County's more stringent standards.

This premise is discussed in two elements for ease of clarification.

a) The City has weaker rules

With the exception of 10% of the County, the County's rules are either less stringent or equivalent to the City's rule.

Source: Mapping analysis done by the Planning Dept:

10% of the County has standards that are more strict than the City's standards

23% of the County has standards less strict than the City's standards

43% of the County has standards similar to the City's standards

(the remaining 24% is forest preserve)

**b) Developers annex into the City to avoid the County's stricter rules.
(Examples given were Bradfordville area and the Lake Jackson area.)**

This is a fictional issue. It simply has not occurred.

In the Bradfordville area, only two developments have approached the City regarding annexation. The City advised both they could not annex unless they developed under the County's stormwater rules. One of these proceeded to develop in accordance with the County rules and the other has not proceeded.

In the Lake Jackson area the last annexation was in 1992. The County's more restrictive rule in this area was not implemented until several years after this.

2. The Comprehensive Plan requires one environmental management department and regulations.

- The slide shown to the Charter Committee with this premise was Objective 1.4 [C]. As shown below, Objective 1.4 [C] speaks to a unified single 'agency'. It does not mention a single 'regulation'. Further, County staff has consistently said they do not propose a single agency (reference the County Administrator's February 14, 2010 letter to the City Manager - copy attached). The County proposed amendment itself doesn't address Objective 1.4 [C].

Comprehensive Plan Objective 1.4 [C]

By 1993, local government will establish a unified single agency focused on environmental and natural resource protection and management that will help conserve, protect, and enhance the natural resources in Tallahassee and Leon County.

- Other Comprehensive Plan policies, not shown to the Committee, make it clear there was not an intent in the Comprehensive Plan to necessarily have a single agency in charge of permitting. For example Policy 1.4.1 [C] (f), which expands on Objective 1.4[C], indicates the agency will...*"administer the environmental permitting, enforcement, and compliance process unless otherwise delegated"*. Other sections of Policy 1.4.1 [C], make it clear that this "single agency" was more akin to a "Conservation Department" that would do studies, run a sensitive lands acquisition program, assist land owners, conduct public education, etc., as opposed to the roles of our respective Growth Management/Permitting agencies.
- In summary, if one fully reviews the Comprehensive Plan, it does not call for a single environmental regulation. Additionally, delegation of permitting, environmental and development review to separate entities is clearly allowable.

3. The City is only interested in flood control and not water quality and the County's ordinances will be needed to meet new federal regulations.

- A review of City regulations clearly documents that they effectively address water quality as well as flood control. They exceed the State's treatment regulations by 50% and also exceed those of the County in 23% of the County's jurisdiction.
- The City has built many more stormwater treatment facilities than has Leon County
- The City has adopted a stormwater fee increase specifically to use for stormwater pollution reduction. It generates over \$3 million annually. This is three times

more than the County's entire revenue stream from its stormwater fee which must be allocated to all County stormwater program uses such as flood control, operations and maintenance, etc.

- In short, no one can honestly claim the City is not carrying its share of the weight with regard to water quality initiatives. In addition to City capital spending, City staff are actively involved with FDEP Technical Advisory Committees developing water quality criteria responsive to several Federal and State rule making efforts.

4. The City does not treat stormwater, but just dumps it into Lake Jackson.

- Please see answer number 3, with regard to stormwater treatment requirements applied in the City.
- In the last decade alone, the City has constructed five separate stormwater projects in the Lake Jackson watershed at a cost of over \$16 million, with another in progress costing an additional \$1.2 million.
- Once again, no one can honestly support this premise.

As the Charter Committee reflects on the above clarifications regarding the reasons cited by County staff for superceding the City's regulatory authority, it might be useful to reflect on the reason the City got involved with environmental regulation back in 1990. It was a direct result of citizen dissatisfaction with the County's administration of stormwater and environmental regulations at that time. The state of affairs that existed before the City stepped in was documented in a 1989 report done by FDEP following a field assessment of development sites in Leon County including that part inside the City limits. Of the 29 developments inspected, 7% didn't have their ponds constructed; 55% of those constructed were not constructed according to the permitted plans; 90% did not meet state stormwater regulations; and 50%, although originally constructed, were not being maintained.

City residents live with higher densities and the problems that arise with more compact living, leads to different values which are in turn reflected in different community standards. If this proposed charter amendment is adopted and the standard County treatment rule takes effect, stormwater treatment requirements in the City will drop by 50%. Although County staff indicate they will address that with a new rule, the amendment does not require this. Further, history has shown that such ordinances are

Clarification from Mayor Marks
Regarding Information Provided to Charter Review Committee
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complex and require an 18- to 24-month process to develop. If the Charter Committee believes an environmental regulation amendment is needed in the Charter, it should only allow the County rules to prevail over the City's in cases where the County's rules are more restrictive. This is essential to safeguard city residents and to ensure our local environment is preserved and protected.

FEB. 18. 2010 11:19AM

COUNTY ADMINISTRATION



Leon County

Board of County Commissioners

301 South Monroe Street, Tallahassee, Florida 32301
(850) 606-5302 www.leoncountyfl.gov

*xc: E-Team
Jim English
Con. Lightse*

Commissioners

February 17, 2010

BILL PROCTOR

District 1

JANE G. SAILS

District 2

JOHN DAILEY

District 3

BRYAN DESLOGE

District 4

BOB RACKLEFF

District 5

CLIFF THAEEL

At-Large

AKIN AKINYEMI

At-Large

PARWEZ ALAM

County Administrator

HERBERT W.A. THELE

County Attorney

Ms. Anita Favors Thompson, City Manager

City of Tallahassee

300 South Adams, Box. A21

Tallahassee, FL 32301

Re: Proposed County Charter Amendment Regarding Unified Countywide Environmental Standards

Dear Anita:

I write this letter to clarify the intent of the County Charter Amendment regarding unified countywide environmental standards being proposed by the Citizen Charter Review Committee. As you are aware, the City and County have separate, but similar regulations for protecting our community's environmental resources. A unified environmental regulations ordinance would benefit the entire community by providing consistency, reliability and uniformity.

We believe that enhancements to the regulations in both jurisdictions are necessary. This does not, however, necessarily mean that one uniform set of environmental regulations would be appropriate for both jurisdictions. Instead, regulations should be based on science and not political boundaries. Therefore, should the proposed Charter Amendment pass, I will assure you that County staff will make every effort to work together with City staff to develop standards that would allow flexibility to promote density in the urban core while at the same time, protecting the water quality of our surface waters countywide.

One area of the regulations that has received the most attention centers on the differences in our stormwater regulations. Water quality treatment for protection of our lakes and rivers should be based on physiographic regions and not on political boundaries. We understand that some areas in the County have higher water quality treatment levels than the City, and some areas in the City have higher treatment levels than the County. However, both regulatory approaches need to be enhanced and unified to protect the water quality of our surface waters countywide. I believe we can do this in a way that also simplifies the maze of regulations that currently exists and promotes a level of consistency and certainty for our community. It is anticipated that these improvements would result in locational-based regulatory standards for stormwater that recognize the difference between the densities in the urban core and rural areas as established in our Comprehensive Plan. This approach would be codified in a unified countywide regulation which would be implemented by our Growth Management Departments.

FEB. 18. 2010 11:19AM

COUNTY ADMINISTRATION

NO. 875 P. 3,

Ms. Anita Favors Thompson

February 15, 2010

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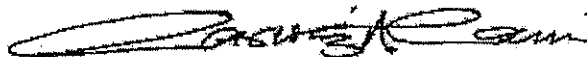
As previously noted, it is anticipated that any proposed changes to countywide environmental regulations would be the result of a collaborative effort between City and County staff and would include participation from a citizen advisory committee. The resulting unified environmental regulations would provide the consistency, reliability and uniformity that would make permitting less problematic for the developers, consultants and the general community, and in so doing, would promote greater compliance with the protection of our natural resources.

Furthermore, it should be clarified that should the proposed Charter Amendment pass, the County would not assume all environmental permitting responsibilities. There would still be two distinct permitting entities; City Growth Management reporting to the City Manager, and County Growth and Environmental Management reporting to the County Administrator. However, both staffs would be enforcing a unified set of countywide environmental regulations. We believe that this approach would better serve the citizens in both jurisdictions.

For many years, going back to the early 1990s, the Board of County Commissioners has consistently identified the issue of unifying environmental regulations as a priority for the community. Over the last decade, the Board has made protection of waterbodies and unification of stormwater standards a perennial retreat priority. I know that you will agree that over the years, we have made significant progress working together on issues of great community importance like this one. After all of the years of effort working toward this important issue, sometimes the right time chooses us. I understand the political realities of the environment that we both have been working in for a very long time. However, I truly hope that the City does not view this approach as hostile, but as an opportunity for us to collectively achieve something of great importance for our community, our citizens (now and future generations), the sustainability of our environment; something which is long overdue and bigger than our political/jurisdictional issues.

We look forward to working with you and your staff on this important endeavor. I hope this clarifies our position on this matter. If you have any questions, please call me.

Sincerely,



Parwez Alam
County Administrator

cc: Board of County Commissioners
Vincent Long, Deputy County Administrator
David McDevitt, Director of Leon County Growth & Environmental Management
John Kraynak, Director of Leon County Environmental Compliance

Countywide Environmental Standards

Sec. 1.6. Relation to Municipal Ordinances.

(1) Except as otherwise provided by law or this Charter, municipal ordinances shall prevail over County ordinances to the extent of any conflict within the boundaries of the municipality. To the extent that a county ordinance and a municipal ordinance shall cover the same subject without conflict, then both the municipal ordinance and the county ordinance shall be effective, each being deemed supplemental to the other.

Unified Environmental Regulations

(2) However, County ordinances establishing, standards, procedures, requirements, and regulations for protection of the environment shall prevail over municipal ordinances when such County ordinances provide a larger degree of protection. Such standards, procedures, requirements and regulations include, tree protection, landscaping, stormwater, protection of conservation and preservation features, and such other environmental standards as the County Commission determines to be necessary for the protection of the public health, safety, and welfare of the citizens throughout Leon County.